

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

RONALD N. TOTARO, Plaintiff, vs. UNITED STATES OF AMERICA, Defendant.	4:19-CV-04057-RAL SECOND ORDER OF TRANSFER AND PARTIALLY VACATING PRIOR ORDER
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On August 13, 2019, this Court issued an Opinion and Order Transferring Case, Doc. 10, by which this Court ordered transfer of the case to the United States District Court for the District of New Jersey, where Totaro was incarcerated. Totaro filed a Notice of Appeal on September 16, 2019. Doc. 12.

On October 8, 2019, the United States Court of Appeal entered a Judgment in the appeal granting the United States' unopposed motion for remand and remanding the case to this Court "with directions to vacate the order construing Totaro's petition under 28 U.S.C. § 2241 and transfer the matter to Totaro's district of confinement." Doc. 18. The mandate of the appellate court then entered on October 8, 2019, as well. Doc. 19. This Court had transferred the case to Totaro's district of confinement. Reading the Defendant's Unopposed Motion for Remand filed with the Eighth Circuit, Defendant believes that the petition should be construed as a post-First Step Act motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A), and the Eighth Circuit appears to agree. Therefore, it is hereby

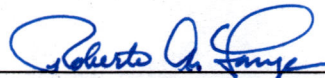
ORDERED that the Opinion and Order Transferring Case, Doc. 10, is vacated in part to the extent that this Court viewed the petition as being filed under 28 U.S.C. § 2241. It is further

ORDERED that this case is once again transferred to the United States District Court for the District of New Jersey, the “district of confinement” of Totaro. It is further

ORDERED that this case be administratively closed in the District of South Dakota.

DATED this 10th day of October, 2019.

BY THE COURT:



ROBERTO A. LANGE
UNITED STATES DISTRICT JUDGE